

U.S. Army Corps of Engineers - Charleston District
Checklist for 2002 Nationwide Permit Review
Nationwide Permit 39

Residential, Commercial, and Institutional Developments
(10/404)

SAC #: _____

Applicant Name: _____

Waterway/Location: _____

Project Name: _____

1. Is the proposal for the discharge of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of residential, commercial, and/or institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures?

☐ Yes ☐ No

2. Does the discharge cause the loss of **greater than** 1/10 acre of non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters?

☐ Yes* ☐ No

3. Does the discharge cause the loss of **less than** 1/10 acre or less of non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters?

☐ Yes¹ ☐ No

4. Does the discharge cause the loss of greater than 1/2 acre of waters of the U.S.?

☐ Yes ☐ No

5. Is the discharge proposed in a designated critical resource water or its adjacent wetlands?

☐ Yes² ☐ No

6. Is the discharge for construction of new oil or gas wells?

☐ Yes ☐ No

7. Does the discharge cause the loss of more than 300 linear feet of streambed?

☐ Yes ☐ No

8. If the discharge is proposed in a residential subdivision, does the aggregate total loss of waters in that entire subdivision exceed 1/2 acre? **NOTE:** *This total aggregate loss includes any loss of waters associated with the initial or subsequent development of that subdivision.*
- ☐ Yes ☐ No ☐ NA
9. If the discharge is proposed in the 100-year floodplain, is permanent above-grade fill proposed below the headwaters, or in the floodway above the headwaters?
- ☐ Yes ☐ No ☐ NA
10. If the discharge is placed in wetlands contiguous to flowing channelized or unchannelized streams, is it located at least 200-feet landward of the ordinary high water mark?
- ☐ Yes ☐ No ☐ NA
11. Is the discharge for a single and complete project?
- ☐ Yes ☐ No
12. Has the prospective permittee avoided and minimized discharges into waters of the U.S. to the maximum extent practicable?
- ☐ Yes ☐ No
13. Has the prospective permittee proposed a compensatory mitigation plan to offset the losses of waters of the U.S.?
- ☐ Yes ☐ No
14. If there are any open waters or streams within the project area, does the prospective permittee propose to establish and maintain, to the maximum extent practicable, wetland or upland vegetated buffers next to those open waters or streams?
- ☐ Yes ☐ No
15. If the project site was previously used for agricultural purposes, did the farm owner/operator use NWP 40 to authorize activities in waters of the U.S. to increase production or construct farm buildings?
- ☐ Yes³ ☐ No ☐ NA
16. If NWP 39 is used in conjunction with any other NWP, does the combined total permanent loss of waters of the U.S. exceed 1/10 acre?
- ☐ Yes* ☐ No ☐ NA
17. Does the work authorized under this NWP cause more than minimal degradation of water quality or more than minimal changes to the flow characteristics of any stream?
- ☐ Yes ☐ No

18. Are all of the applicable NWP General or Regional Conditions satisfied, including mitigation (GC #19), endangered species, and cultural resources, and if any Federally listed species and/or designated critical habitat occurs in the action area, have you made an effect determination and properly documented it in the administrative record?
- ☐ Yes ☐ No
19. Are the wetland/stream crossings aligned and designed to minimize the loss of waters of the U.S.?
- ☐ Yes ☐ No ☐ NA
20. Does the notification include appropriately sized and located culverts for crossings of waters of the U.S. that meet the requirements of General Conditions 4, 21 and 26.
- ☐ Yes ☐ No
21. Does the activity accommodate bankfull⁴ flows by maintaining the existing bankfull channel cross sectional area? *NOTE: Flows that exceed bankfull flow must be accommodated by placement of additional culverts above the bankfull elevation.*
- ☐ Yes ☐ No ☐ NA
22. Is there a discharge of dredge or fill material for the construction of stormwater management facilities in perennial streams?
- ☐ Yes ☐ No
23. Do any activities result in channel relocations?
- ☐ Yes⁵ ☐ No

TO QUALIFY FOR THE NWP, UNLESS OTHERWISE NOTED, EVERY NUMBERED ITEM MUST HAVE A CHECKED BOX.

* - REQUIRES A PRE-CONSTRUCTION NOTIFICATION (PCN) TO THE DISTRICT ENGINEER.

NOTE: THE PCN MUST ALSO INCLUDE A DELINEATION OF AFFECTED SPECIAL AQUATIC SITES, INCLUDING VEGETATED WETLANDS, VEGETATED SHALLOWS (submerged aquatic vegetation, seagrass beds) AND RIFFLE POOL COMPLEXES.

¹ - Requires the permittee to submit a report within 30 days of the completion of work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the U.S.; and (5) The type and acreage of any compensatory mitigation.

² - Discharges of dredged or fill material into waters of the U.S. may be authorized by this NWP in National Wild and Scenic Rivers if the activity complies with NWP General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with NWP General Condition 11, and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

³ - The combined acreage loss authorized under NWPs 39 and 40 cannot exceed 1/2 acre.

⁴- Bankfull corresponds to the discharge at which channel-forming processes, such as farming or removing bars or meanders, is most effective. It is typically associated with the 1.5-year storm event, the "ordinary high water mark", and the elevation on the stream bank where flooding begins in a stable stream system. It can often be identified in the field by the elevation of the highest depositional feature (e.g. point bars), a recognizable floodplain, or a break in perennial vegetation.

⁵- Channel relocations limited to man-made drainage ditches.